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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,702	05/25/2001	Thorbjorn Andersson	027650-930	2294
21839	7590	07/20/2004	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			SIMONE, CATHERINE A	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 07/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

S.C.

<b>Advisory Action</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/856,702	ANDERSSON ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Catherine Simone	1772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

a)  The period for reply expires 3 months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection; whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.  A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
 2.  The proposed amendment(s) will not be entered because:  
   (a)  they raise new issues that would require further consideration and/or search (see NOTE below);  
   (b)  they raise the issue of new matter (see Note below);  
   (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
   (d)  they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 4.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 5.  The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Attachment.  
 6.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
 7.  For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 2-5,9-21,29,30,32 and 34-38.

Claim(s) withdrawn from consideration: none.

8.  The drawing correction filed on \_\_\_\_\_ is a) approved or b) disapproved by the Examiner.  
 9.  Note the attached Information Disclosure Statement(s) ( PTO-1449) Paper No(s). \_\_\_\_\_.  
 10.  Other: \_\_\_\_\_

**Advisory Action*****Response to Arguments***

Applicant's arguments filed 6/23/04 have been fully considered but they are not persuasive. Applicants state that "the blending in Rolle et al. consists of a rigid component that is "as much as possible towards 50%" of the blend. See page 6, line 4. Rolle et al. further discloses that the blend contains 60-90% rigid component, preferably 60-80% of the rigid component. See page 6, lines 12-14. Thus, the disclosure in Rolle et al. is to a blend in which the rigid component is as much towards 50%, and preferably more than 50% of the blend." Applicants further argue that "the disclosure in Rolle et al. would be understood by one of ordinary skill in the art to promote a high proportion of rigid component and would therefore teach away from applicants' claimed mixing ratio." However, it is to be pointed out that Rolle et al. teaches lowering the percentage of the rigid component "as much as possible towards 50%. See page 6, lines 3-5. Therefore, one of ordinary skill in the art would have determined the optimum range for the mixing ratio through routine experimentation depending on the desired end results as shown by Rolle et al. Thus, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the expanded polymeric foam material in Rolle et al. to have a mixing ratio of about 1:1.5, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art in absence of showing unexpected results. MPEP 2144.05.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571)272-1501. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Catherine Simone  
Examiner  
Art Unit 1772  
July 14, 2004

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  


7/14/04